

**Assembly Bill No. 680**

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Passed the Assembly    August 31, 2000

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*Chief Clerk of the Assembly*

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Passed the Senate    August 30, 2000

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2000, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_\_

An act to amend Section 12017 of the Fish and Game Code, and to amend Sections 8670.3, 8670.64, 8670.66, 8670.67, and 8670.70 of, and to add Sections 8670.2.5, 8670.4.5, 8670.67.3, and 8670.75 to, the Government Code, relating to oil spills, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

AB 680, Lempert. Oil spill prevention: nonmarine waters.

(1) The existing Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, among other things, governs the prevention of oil spills into marine waters, as defined.

This bill would define the term “waters of the state” for purposes of the act and, for purposes of spills or discharges of oil into nonmarine waters of the state, the bill would limit the definition of the term “person” under the act. The bill would specify that the act does not apply to a discharge or spill of oil to groundwater or dry land, unless a specified amount of the oil enters the surface water.

(2) Under the act, it is a crime to, among other things, knowingly engage in or cause the spill or discharge of at least one barrel (42 gallons) of oil into marine waters, and the intentional or negligent spill or discharge of that quantity of oil into marine waters is also subject to specified civil penalties, as prescribed. Existing law imposes civil and administrative penalties upon persons who fail to comply with specified plans, orders, or notification requirements with regard to discharges or spills.

Under existing law, the Fish and Wildlife Pollution Account in the Fish and Game Preservation Fund is continuously appropriated to the Department of Fish and Game for specified restoration purposes relating to pollution abatement, and resource restoration and preservation.



This bill would make such a spill or discharge of oil into nonmarine waters of the state on or after January 1, 2001, or noncompliance with those plans, orders, or notification requirements after that date, subject to specified criminal, civil, and administrative penalties. The bill would therefore impose a state-mandated local program by creating a new crime.

The bill would require specified factors to be considered in determining the amount of criminal, civil, or administrative penalties to be imposed for such a spill or discharge. The bill would require all penalties collected that are derived from those spills or discharges to be deposited in the Fish and Wildlife Pollution Account in the Fish and Game Preservation Fund. The bill would make an appropriation by providing for the deposit of those penalties into a continuously appropriated account. The bill would make conforming changes and prescribe related matters.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. It is the intent of the Legislature that this act does not apply to spills or discharges of oil or petroleum products by agricultural operations into waters of the state, other than marine waters.

SEC. 1.5. Section 12017 of the Fish and Game Code is amended to read:

12017. (a) Notwithstanding Section 13001, any recovery or settlement of money received pursuant to the following sections shall be deposited in the Fish and Wildlife Pollution Account:

(1) Section 2014.



(2) Article 1 (commencing with Section 5650) of Chapter 2 of Part 1 of Division 6.

(3) Section 12015 or 12016.

(4) Chapter 4 (commencing with Section 151) of Division 1.5 of the Harbors and Navigation Code.

(5) Section 13442 of the Water Code.

(6) Proceeds or recoveries from pollution and abatement actions.

(7) Section 8670.75 of the Government Code.

(b) Moneys in the account are continuously appropriated to the department, except as provided in Section 13230.

(c) Funds in the account shall be expended for the following purposes:

(1) Abatement, cleanup, and removal of pollutants from the environment.

(2) Response coordination, planning, and program management.

(3) Resource injury determination.

(4) Resource damage assessment.

(5) Economic valuation of resources.

(6) Restoration or rehabilitation at sites damaged by pollution.

(d) Notwithstanding subdivision (c), funds in the account in excess of one million dollars (\$1,000,000) as of July 1 of each year may also be expended for the preservation of California plants, wildlife, and fisheries.

(e) Funds in the account may be expended for cleanup and abatement if a reasonable effort has been made to have the responsible party pay cleanup and abatement costs and funds are not available for disbursement from the emergency reserve account of the Hazardous Waste Control Account in the General Fund pursuant to Section 25354 of the Health and Safety Code.

(f) The department may use funds in the account to pay the costs of consultant contracts for resource injury determination or damage assessment during hazardous material or oil spill emergencies. These contracts are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.



SEC. 2. Section 8670.2.5 is added to the Government Code, to read:

8670.2.5. The Legislature further finds and declares as follows:

(a) Each year, billions of gallons of crude oil and petroleum products are stored or transported by pipeline or other means across and adjacent to the waters of the state.

(b) Recent discharges in California and other parts of the nation have shown that the discharge of oil can be a significant threat to the environment.

(c) Although spill prevention programs may reduce the risk of a significant discharge of petroleum into the nonmarine waters of the state, fines and penalties associated with those spills or discharges are insufficient when compared to similar spills or discharges into the marine waters of the state.

(d) Penalties resulting from spills or discharges into the nonmarine waters of the state occurring from pipelines under the jurisdiction of the Office of the State Fire Marshal or the United States Department of Transportation; from oil production wells, whether active, inactive, or abandoned, and the gathering lines, pipelines, and flow lines associated therewith, under the jurisdiction of the Department of Conservation; from refineries; and from spills or discharges resulting from the transport of oil or petroleum products by rail or vessel should be comparable to those imposed for the spill or discharge of oil or petroleum products into the marine waters of the state.

SEC. 3. Section 8670.3 of the Government Code is amended to read:

8670.3. Unless the context requires otherwise, the following definitions shall govern the construction of this chapter:

(a) “Administrator” means the administrator for oil spill response appointed by the Governor pursuant to Section 8670.4.



(b) “Barge” means any vessel that carries oil in commercial quantities as cargo but is not equipped with a means of self-propulsion.

(c) (1) “Best achievable protection” means that the highest level of protection that can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The administrator’s determination of best achievable protection shall be guided by the critical need to protect valuable coastal resources and marine waters, while also considering (A) the protection provided by the measures, (B) the technological achievability of the measures, and (C) the cost of the measures.

(2) It is not the intent of the Legislature that the administrator use a cost-benefit or cost-effectiveness analysis or any particular method of analysis in determining which measures to require. Instead, it is the intent of the Legislature that the administrator give reasonable consideration to the protection provided by the measures, the technological achievability of the measures, and the cost of the measures when establishing the requirements to provide the best achievable protection for coastal and marine resources.

(d) “Best achievable technology” means that technology that provides the greatest degree of protection, taking into consideration (1) processes that are being developed, or could feasibly be developed anywhere in the world, given overall reasonable expenditures on research and development, and (2) processes that are currently in use anywhere in the world. In determining what is best achievable technology, the administrator shall consider the effectiveness and engineering feasibility of the technology.

(e) “Local government” means any chartered or general law city, chartered or general law county, or any city and county.

(f) “Marine facility” means any facility of any kind, other than a vessel, that is or was used for the purposes of exploring for, drilling for, producing, storing, handling,



transferring, processing, refining, or transporting oil and is located in marine waters, or is located where a discharge could impact marine waters unless the facility (1) is subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code or (2) is placed on a farm, nursery, logging site, or construction site and does not exceed 20,000 gallons in a single storage tank. For the purposes of this chapter, a drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform is a “marine facility.” For the purposes of this chapter, a small craft refueling dock is not a “marine facility.”

(g) “Marine terminal” means any marine facility used for transferring oil to or from tankers or barges. For the purposes of this section, a marine terminal includes all piping not integrally connected to a tank facility as defined in subdivision (l) of Section 25270.2 of the Health and Safety Code.

(h) “Marine waters” means those waters subject to tidal influence, except for waters in the Sacramento-San Joaquin Delta upstream from a line running north and south through the point where Contra Costa, Sacramento, and Solano Counties meet.

(i) “Mobile transfer unit” means a small marine fueling facility that is a vehicle, truck, or trailer, including all connecting hoses and piping, used for the transferring of oil at a location where a discharge could impact marine waters.

(j) “Nonpersistent oil” means a petroleum-based oil, such as gasoline, diesel, or jet fuel, that evaporates relatively quickly. Specifically, it is an oil with hydrocarbon fractions, at least 50 percent of which, by volume, distills at a temperature of 645° Fahrenheit, and at least 95 percent of which, by volume, distills at a temperature of 700° Fahrenheit.

(k) “Oil” means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude



oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.

(l) “Oil spill cleanup agent” means a chemical, or any other substance, used for removing, dispersing, or otherwise cleaning up oil or any residual products of petroleum in, or on, any of the waters of the state.

(m) “Onshore facility” means any facility of any kind that is located entirely on lands not covered by marine waters.

(n) (1) “Owner” or “operator” means any of the following:

(A) In the case of a vessel, any person who owns, has an ownership interest in, operates, charters by demise, or leases, the vessel.

(B) In the case of a marine facility, any person who owns, has an ownership interest in, or operates the marine facility.

(C) Except as provided in subparagraph (D), in the case of any vessel or marine facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to an entity of state or local government, any person who owned, held an ownership interest in, operated, or otherwise controlled activities concerning the vessel or facility immediately beforehand.

(D) An entity of the state or local government that acquired ownership or control of a vessel or marine facility, when the entity of the state or local government has caused or contributed to a spill or discharge of oil into marine waters.

(2) “Owner” or “operator” does not include a person who, without participating in the management of a vessel or marine facility, holds indicia of ownership primarily to protect the person’s security interest in the vessel or marine facility.

(3) “Operator” does not include any person who owns the land underlying a marine facility or the facility itself if the person is not involved in the operations of the facility.





(o) “Person” means any individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, and association. “Person” also includes any city, county, city and county, district, and the state or any department or agency thereof, and the federal government, or any department or agency thereof, to the extent permitted by law. For the purposes of spills or discharges of oil or petroleum products into the waters of the state, other than marine waters, “person” is limited to an owner or lessee of any of the following:

(1) A pipeline under the jurisdiction of the Office of the State Fire Marshal, as described in Chapter 5.5 (commencing with Section 51010) of Division 1 of Title 5, or the United States Department of Transportation, but does not include a pipeline used exclusively for the gathering, transmission, or distribution of natural gas.

(2) Oil field production facilities, whether active, inactive, or abandoned, and the gathering lines, pipelines, and flow lines associated therewith, under the jurisdiction of the Division of Oil, Gas, and Geothermal Resources of the Department of Conservation.

(3) A railroad.

(4) A refinery.

(5) A vessel to be used, or designed to be used, for the commercial transport of oil or petroleum products.

(p) “Pipeline” means any pipeline used at any time to transport oil.

(q) “Responsible party” or “party responsible” means any of the following:

(1) The owner or transporter of oil or a person or entity accepting responsibility for the oil.

(2) The owner, operator, or lessee of, or person who charters by demise, any vessel or marine facility, or a person or entity accepting responsibility for the vessel or marine facility.

(r) “Small craft” means waterborne craft, other than a tanker or barge, that is less than 20 meters in length.

(s) “Small craft refueling dock” means a waterside operation that dispenses only nonpersistent oil in bulk



and small amounts of persistent lubrication oil in containers primarily to small craft and meets both of the following criteria:

(1) Has tank storage capacity not exceeding 20,000 gallons in any single storage tank or tank compartment.

(2) Has a total usable tank storage capacity not exceeding 75,000 gallons.

(t) “Small marine fueling facility” means either of the following:

(1) A mobile transfer unit.

(2) A fixed facility that is not a marine terminal, that dispenses primarily nonpersistent oil, and may dispense small amounts of persistent oil, primarily to small craft, and meets all of the following criteria:

(A) Has tank storage capacity not exceeding 40,000 gallons in any single storage tank or storage tank compartment.

(B) Has total usable tank storage capacity not exceeding 75,000 gallons.

(C) Had an annual throughput volume of over-the-water transfers of oil that did not exceed 3,000,000 gallons during the most recent preceding 12-month period.

(u) “Spill” or “discharge” means any release of at least one barrel (42 gallons) of oil into marine waters or into waters of the state other than marine waters that is not authorized by any federal, state, or local government entity.

(v) “State Interagency Oil Spill Committee” means the committee established pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(w) “State oil spill contingency plan” means the state oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(x) “Tanker” means any self-propelled, waterborne vessel, constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

(y) “Vessel” means a barge, as defined in subdivision (b), or a tanker, as defined in subdivision (x).



(z) “Vessel carrying oil as secondary cargo” means a tanker or barge that does not carry oil as a primary cargo, but does carry oil in bulk as cargo or cargo residue.

(aa) “Waters of the state” means any water, surface or underground, including saline waters, within the boundaries of the state.

SEC. 4. Section 8670.4.5 is added to the Government Code, to read:

8670.4.5. (a) (1) With respect to discharges or spills of oil into the waters of the state other than marine waters, this chapter does not apply to a discharge or spill of oil to groundwater or dry land, including, but not limited to, dry arroyos, unless oil also enters the surface waters in an amount designated in subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (d) of Section 8670.64.

(2) For purposes of this section, surface water includes, but is not limited to, a lake, river, bay, stream, wetland, canal, basin, or other waterway.

(b) The limitation specified in subdivision (a) shall apply to this chapter only and shall have no effect upon any other law.

(c) Any term, definition, or limitation contained in subdivision (a) shall not be construed to affect a term, definition, or limitation in any other law.

SEC. 5. Section 8670.64 of the Government Code is amended to read:

8670.64. (a) Any person who commits any of the following acts, shall, upon conviction, be punished by imprisonment in the county jail for not more than one year or by imprisonment in the state prison:

(1) Except as provided in Section 8670.27, knowingly fails to follow the directions or orders of the administrator in connection with an oil spill.

(2) Knowingly fails to notify the Coast Guard that a vessel is disabled within one hour of the disability and the vessel, while disabled, causes a discharge of oil which enters marine waters. For the purposes of this paragraph, “vessel” means a vessel, as defined in Section 21 of the



Harbors and Navigation Code, of 300 gross registered tons or more.

(3) Knowingly engages in or causes the discharge or spill of oil into marine waters or any person who reasonably should have known that the person was engaging in or causing the discharge or spill of oil into marine waters unless the discharge is authorized by the United States, the state, or another agency with appropriate jurisdiction.

(4) Knowingly fails to begin cleanup, abatement, or removal of spilled oil as required by Section 8670.25.

(5) Knowingly, intentionally, or with gross negligence engages in, or causes, the discharge or spill of oil into the waters of the state other than marine waters, unless the discharge is authorized by the United States, the state, or another agency with appropriate jurisdiction.

(b) Any person who negligently engages in or causes the discharge of oil into the waters of the state other than marine waters, unless the discharge is authorized by the United States, the state, or another agency with appropriate jurisdiction, is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one year.

(c) The court shall also impose upon a person convicted of violating paragraph (1), (2), (3), or (4) of subdivision (a), a fine of not less than five thousand dollars (\$5,000) or more than five hundred thousand dollars (\$500,000) for each violation. For purposes of this subdivision, each day or partial day that a violation occurs is a separate violation.

(d) (1) The court shall also impose upon a person convicted of violating paragraph (5) of subdivision (a) or of violating subdivision (b), a fine in the amounts set forth below for each violation:

(A) For a discharge or spill of 42 or more, but less than 210, gallons of oil into the surface water as described in Section 8670.4.5, the fine shall not exceed twenty-five thousand dollars (\$25,000).

(B) For a discharge or spill of 210 or more, but less than 5,000, gallons of oil into the surface water as described in



Section 8670.4.5, the fine shall be not less than five thousand dollars (\$5,000) and not more than twenty-five thousand dollars (\$25,000).

(C) For a discharge or spill of 5,000 or more, but less than 10,000, gallons of oil into the surface water as described in Section 8670.4.5, the fine shall be not less than five thousand dollars (\$5,000) and not more than one hundred fifteen thousand dollars (\$115,000).

(D) For a discharge or spill of 10,000 or more, but less than 15,000, gallons of oil into the surface water as described in Section 8670.4.5, the fine shall be not less than five thousand dollars (\$5,000) and not more than two hundred twenty-five thousand dollars (\$225,000).

(E) For a discharge or spill of 15,000 gallons or more of oil into the surface water as described in Section 8670.4.5, the fine shall not be less than five thousand dollars (\$5,000) and not more than three hundred fifty thousand dollars (\$350,000).

(2) Each day or partial day that a violation occurs is a separate violation.

(3) This subdivision applies only to oil discharges or spills into waters of the state other than marine waters.

(4) Except as specified in subparagraph (B) of paragraph (1), the maximum fine amounts specified in paragraph (1) shall also be the maximum aggregate amount that may be imposed for the fine imposed under this section, the civil penalty imposed pursuant to Section 8670.66 and the civil administrative penalty imposed pursuant to Section 8670.67.

(e) (1) Any person who knowingly does any of the acts specified in paragraph (2) shall, upon conviction, be punished by a fine of not less than two thousand five hundred dollars (\$2,500) or more than two hundred fifty thousand dollars (\$250,000), or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment. Each day or partial day that a violation occurs is a separate violation. If the conviction is for a second or subsequent violation of this subdivision, the person shall be punished by imprisonment in the state prison or in the county jail for not more than one year, or

by a fine of not less than five thousand dollars (\$5,000) or more than five hundred thousand dollars (\$500,000), or by both the fine and imprisonment:

(2) The acts subject to this subdivision are all of the following:

(A) Fails to notify the Office of Emergency Services in violation of Section 8670.25.5.

(B) Continues operations for which contingency plans are required without a contingency plan approved pursuant to Article 5 (commencing with Section 8670.28).

(C) Except as provided in Section 8670.27, knowingly fails to follow the material provisions of the applicable contingency plans.

SEC. 6. Section 8670.66 of the Government Code is amended to read:

8670.66. (a) Any person who intentionally or negligently does any of the following acts shall be subject to a civil penalty of not less than twenty-five thousand dollars (\$25,000) or more than five hundred thousand dollars (\$500,000) for each violation, and each day or partial day that a violation occurs is a separate violation:

(1) Except as provided in Section 8670.27, fails to follow the directions or orders of the administrator in connection with an oil spill.

(2) Fails to notify the Coast Guard that a vessel is disabled within one hour of the disability and the vessel, while disabled, causes a discharge of oil which enters marine waters. For the purposes of this paragraph, “vessel” means a vessel, as defined in Section 21 of the Harbors and Navigation Code, of 300 gross registered tons or more.

(3) Discharges or spills oil into marine waters, or into waters of the state other than marine waters, unless the discharge is authorized by the United States, the state, or other agency with appropriate jurisdiction.

(4) Fails to begin cleanup, abatement, or removal of spilled oil as required in Section 8670.25.

(b) Except as provided in subdivision (a), any person who intentionally or negligently violates any provision of this chapter, or Division 7.8 (commencing with Section

8750) of the Public Resources Code, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to those provisions, shall be liable for a civil penalty not to exceed two hundred fifty thousand dollars (\$250,000) for each violation of a separate provision, or, for continuing violations, for each day that violation continues.

(c) If the act involves the discharge or spill of oil into the waters of the state other than marine waters as prohibited by paragraph (3) of subdivision (a), the maximum civil penalty that may be imposed pursuant to this section shall not exceed the amount set forth as a maximum fine for corresponding conduct in subdivision (d) of Section 8670.64.

(d) No person shall be liable for a civil penalty imposed under this section and for a civil penalty imposed pursuant to Section 8670.67 for the same act or failure to act.

SEC. 7. Section 8670.67 of the Government Code is amended to read:

8670.67. (a) Except as set forth in subdivisions (c) and (d), any person who intentionally or negligently does any of the following acts shall be subject to an administrative civil penalty not to exceed one hundred thousand dollars (\$100,000) for each violation as imposed by the administrator pursuant to Section 8670.68, and each day or partial day that a violation occurs is a separate violation:

(1) Except as provided in Section 8670.27, fails to follow the applicable contingency plans or the direction or orders of the administrator in connection with an oil spill.

(2) Fails to notify the Coast Guard that a vessel is disabled within one hour of the disability and the vessel, while disabled, causes a discharge of oil which enters marine waters. For the purposes of this paragraph, “vessel” means a vessel, as defined in Section 21 of the Harbors and Navigation Code, of 300 gross registered tons or more.

(3) Discharges or spills oil into marine waters, or into waters of the state other than marine waters, unless the discharge is authorized by the United States, the state, or other agency with appropriate jurisdiction.

(4) Fails to begin cleanup, abatement, or removal of spilled oil as required by Section 8670.25.

(b) Except as provided in subdivision (a), any person who intentionally or negligently violates any provision of this chapter, or Division 7.8 (commencing with Section 8750) of the Public Resources Code, or any permit, rule, regulation, standard, cease and desist order, or requirement issued or adopted pursuant to those provisions, shall be liable for an administrative civil penalty as imposed by the administrator pursuant to Section 8670.68, not to exceed one hundred thousand dollars (\$100,000) for each violation of a separate provision, or, for continuing violations, for each day that violation continues.

(c) If the act involves the discharge or spill of oil into waters of the state other than marine waters as prohibited by paragraph (3) of subdivision (a), the civil administrative penalty for discharges or spills of less than 5,000 gallons shall not exceed twenty-five thousand dollars (\$25,000) for each violation and the civil administrative penalty for such an action regarding a discharge or spill of 5,000 gallons or more of oil into waters of the state other than marine waters shall be one hundred thousand dollars (\$100,000) for each violation. Each day or partial day that a violation occurs is a separate violation.

(d) No person shall be liable for a civil penalty imposed under this section and for a civil penalty imposed pursuant to Section 8670.66 for the same act or failure to act.

SEC. 8. Section 8670.67.3 is added to the Government Code, to read:

8670.67.3. In determining the amount of criminal, civil, or civil administrative penalties to impose, for a discharge or spill into the waters of the state other than marine waters, the court or administrator shall take into





consideration all relevant circumstances including, but not limited to, all of the following:

- (a) The nature, circumstance, extent, and gravity of the violation.
- (b) The extent of harm caused.
- (c) The ability of the defendant to pay.
- (d) Any voluntary cleanup efforts undertaken by the defendant.
- (e) The degree of culpability of the defendant.
- (f) Any prior history of spills, discharges, or other violations, by the defendant.
- (g) The economic benefit, if any, to the defendant from the violation.
- (h) Whether or not the defendant has been diligent in implementing practices to reduce the possibility of an oil spill to the surface water.
- (i) Any other factors the interests of justice may require.

SEC. 9. Section 8670.70 of the Government Code is amended to read:

8670.70. The Environmental Enhancement Fund is hereby created in the State Treasury. All penalties collected under Article 9 (commencing with Section 8670.57) shall be deposited in the Environmental Enhancement Fund, except as specified in Sections 8670.68.5 and 8670.75. The money in the fund shall only be used for environmental enhancement projects and shall not be used for the cleanup of an oil spill or the restoration required after an oil spill. The money in the fund shall be available to the administrator for environmental enhancement projects, upon appropriation therefor by the Legislature.

SEC. 10. Section 8670.75 is added to the Government Code, to read:

8670.75. (a) All penalties collected under Article 9 (commencing with Section 8670.57) that are derived from spills or discharges into the waters of the state other than marine waters shall be deposited in the Fish and Wildlife Pollution Account in the Fish and Game



Preservation Fund and expended in accordance with Section 12017 of the Fish and Game Code.

(b) With respect to discharges or spills of oil into the waters of the state other than marine waters all of the following conditions shall apply:

(1) This chapter shall not be construed to prevent the Attorney General, a district attorney, or city attorney from filing a criminal or civil action for a violation arising from the same discharge or spill under any other law that may apply. This chapter shall also not be construed to prohibit the Attorney General, a district attorney, or a city attorney from seeking a criminal fine or civil penalty, or both, under this chapter and, in addition, seeking any other legal or equitable remedy, other than a criminal fine or civil penalty, pursuant to any other law for the same violation including, but not limited to, injunctive relief, restitution, damages, recovery of cleanup costs, environmental restoration, or an award of attorney fees and court costs, if applicable.

(2) If, in the same proceeding, the Attorney General, a district attorney, or a city attorney seeks a criminal fine or civil penalty, or both, under both this chapter and any other applicable law, a criminal fine or civil penalty shall not be imposed for violations arising from the same discharge or spill under both this chapter and that other law. This paragraph does not affect the right of the people to seek a criminal fine or civil penalty, or both, under this chapter and other legal or equitable relief for violations arising from the same discharge or spill, as described in paragraph (1).

(3) If a criminal fine or civil penalty, or both, has been imposed for a violation arising from the same discharge or spill in another action pursuant to another law, the maximum criminal fine or civil penalty for which the defendant is liable under subdivision (d) of Section 8670.64 or subdivision (c) of Section 8670.66 shall be reduced by the amount of the criminal fine or civil penalty imposed in the other action. This paragraph does not require a reduction in the maximum criminal fine or civil penalty under this chapter if other legal or equitable



relief is sought for a violation arising from the same discharge or spill, as described in paragraph (1).

(4) If a civil administrative penalty is imposed pursuant to subdivision (c) of Section 8670.67, the maximum civil administrative penalty that may be imposed pursuant to that section shall be reduced by the amount of the civil administrative penalty imposed under any other law for a violation arising from the same discharge or spill. This paragraph does not require a reduction in a maximum civil administrative penalty that may be imposed under subdivision (c) of Section 8670.67 for any relief other than a civil administrative penalty ordered by an administrative agency for a violation arising from the same discharge or spill, including, but not limited to, orders related to cleanup, abatement, environmental restoration, recovery of damages, restitution, and costs.

(5) Except as otherwise expressly provided in this chapter, nothing in this chapter is intended to add to or reduce the rights or liabilities of any person under any other law.

SEC. 11. The changes in the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, Chapter 7.4 (commencing with Section 8670.1) of Division 1 of Title 2 of the Government Code, by this act shall apply to violations of Sections 8670.64, 8670.66, and 8670.67 of the Government Code that occur on or after January 1, 2001.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved \_\_\_\_\_, 2000

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*Governor*

